

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

20-CA-272392

Date Filed

2/8/2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Lush		b. Tel. No. (888) 733-5874
		c. Cell No.
		f. Fax. No.
d. Address (Street, city, state, and ZIP code) 8680 Cambie St, Vancouver, BC V6P 6M9, Canada	e. Employer Representative Mark Wolverton, CEO	g. e-mail mark@lush.com
		h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Retail	j. Identify principal product or service Bath and body products	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since on or about January 6, 2021, the employer threatened employees employed at its San Francisco, CA location because of their union activity and their concerted protected activity on behalf of their co workers and also in support of Lush workers in Toronto who are organizing a union.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Workers United Canada Council, SEIU

4a. Address (Street and number, city, state, and ZIP code) 2800 Skymark Ave #10A, Mississauga, ON L4W 5A6, Canada	4b. Tel. No. +1 416-510-0887
	4c. Cell No. (b) (6), (b) (7)(C)
	4d. Fax No.
	4e. e-mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Workers United Canada Council, SEIU

6. DECLARATION

I declare that I have read the above charge and that the statements
of my knowledge and belief.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(signature of representative or person making charge)

(Print/type name and title or office, if any)

Address 2800 Skymark Ave #10A, Mississauga, ON L4W 5A6,

Date 02/07/21

Tel. No.

(b) (6), (b) (7)(C)

Office, if any, Cell No.

Fax No.

e-mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 20
901 Market Street, Suite 400
San Francisco, CA 94103-1738

Agency Website: www.nlr.gov
Telephone: (415)356-5130
Fax: (415)356-5156



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February 9, 2021

Mark Wolverton, CEO
Lush
8680 Cambie St
Vancouver, BC V6P 6M9
Canada

Re: Lush
Case 20-CA-272392

Dear Mr. Wolverton:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JASON P. WONG whose telephone number is (628)221-8836. If this Board agent is not available, you may contact Supervisory Attorney JENNIFER BENESIS whose telephone number is (628)221-8846.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board

agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlr.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

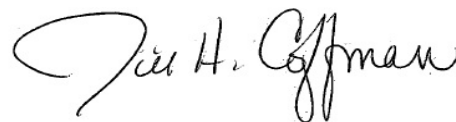
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In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlrb.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jill H. Coffman". The signature is fluid and cursive, with the first name "Jill" and last name "Coffman" clearly distinguishable.

JILL H. COFFMAN
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 20
901 Market Street, Suite 400
San Francisco, CA 94103-1738

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Telephone: (415)356-5130
Fax: (415)356-5156



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February 9, 2021

(b) (6), (b) (7)(C)

Workers United Canada Council, SEIU
2800 Skymark Ave #10A
Mississauga, ON L4W 5A6
Canada

Re: Lush
Case 20-CA-272392

Dear (b) (6), (b) (7)(C):

The charge that you filed in this case on February 08, 2021 has been docketed as case number 20-CA-272392. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney JASON P. WONG whose telephone number is (628)221-8836. If this Board agent is not available, you may contact Supervisory Attorney JENNIFER BENESIS whose telephone number is (628)221-8846.

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If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability.
Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jill H. Coffman". The signature is fluid and cursive, with the first name "Jill" and last name "Coffman" clearly distinguishable.

JILL H. COFFMAN
Regional Director

cc:

(b) (6), (b) (7)(C)
Workers United Canada Council, SEIU
2800 Skymark Ave #10A
Mississauga, ON L4W 5A6
Canada

February 23, 2021

Sent Via Email: Jason.Wong@nlrb.gov

Jason Wong
Field Attorney, NLRB – Region 20
901 Market Street, Suite 400
San Francisco, CA 94103

Re: ***Lush Manufacturing, LTD***
Charge No. 20-CA-272392

Mr. Wong:

Please be advised that Buelow Vetter Buikema Olson & Vliet, LLC, has been retained to represent Respondent, Lush Manufacturing, in the above-captioned matter. This letter shall serve as the Notice of Appearance for the following:

Rob H. Buikema, Esq.
Joel S. Aziere, Esq.
Buelow Vetter Buikema Olson & Vliet, LLC
20855 Watertown Road, Suite 200
Waukesha, WI 53186

Please direct any and all future correspondence and/or communications in this matter to my attention. My direct contact information may be located above. If you have any questions, please do not hesitate to contact me. Thank you for your time and attention to this matter.

Regards,

Buelow Vetter Buikema Olson & Vliet, LLC

/s/ Rob H. Buikema

Rob H. Buikema

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

First Amended

DO NOT WRITE IN THIS SPACE	
Case 20-CA-272392	Date Filed 05/03/2021

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer Lush Fresh Handmade Cosmetics		b. Tel. No. (888) 733-5874
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 8680 Cambie St, Vancouver, BC V6P 6M9, Canada	e. Employer Representative Mark Wolverton, CEO	g. e-mail mark@lush.com
		h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Retail	j. Identify principal product or service Bath and body products	

The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since on or about January 6, 2021, the employer threatened employees employed at its San Francisco, CA location because of their union activity and their concerted protected activity on behalf of their co workers and also in support of Lush workers in Toronto who are organizing a union. On January 13, 2021, the employer interrogated employees about their union activity and coerced employees in exercising their Section 7 rights.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

Workers United Canada Council, SEIU

4a. Address (Street and number, city, state, and ZIP code) 2800 Skymark Ave #10A, Mississauga, ON L4W 5A6, Canada	4b. Tel. No. +1 416-510-0887
	4c. Cell No. (b) (6), (b) (7)(C)
	4d. Fax No.
	4e. e-mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

Workers United Canada Council, SEIU

8. DECLARATION

I declare that I have read the above charge and that the statements contained herein are true to the best of my knowledge and belief.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(Print type name and title or office, if any)

Address _____

Date

April 29, 2021

Tel. No.

Office, if any, Cell No.

Fax No.

e-mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

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Fax: (415)356-5156



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May 4, 2021

Mark Wolverton, CEO
Lush Fresh Handmade Cosmetics
8680 Cambie Street
Vancouver, BC V6P 6M9

Re: Lush Fresh Handmade Cosmetics
Case 20-CA-272392

Dear Mr. Wolverton:

Enclosed is a copy of the first amended charge that has been filed in this case.

Investigator: This charge is being investigated by Field Attorney JASON P. WONG whose telephone number is (628)221-8836. If the agent is not available, you may contact Supervisory Attorney JENNIFER BENESIS whose telephone number is (628)221-8846.

Presentation of Your Evidence: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its

determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in black ink, reading "Jill H. Coffman". The signature is fluid and cursive, with the first name "Jill" and last name "Coffman" clearly legible.

JILL H. COFFMAN
Regional Director

Enclosure: Copy of first amended charge

cc: Robert H. Buikema, Attorney
Buelow Vetter Buikema Olson & Vliet LLC
20855 Watertown Road Suite 200
Waukesha WI 53186-1873



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

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May 4, 2021

(b) (6), (b) (7)(C)

Workers United Canada Council SEIU
2800 Skymark Avenue #10A
Mississauga ON L4W 5A6

Re: Lush Fresh Handmade Cosmetics
Case 20-CA-272392

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May 4, 2021

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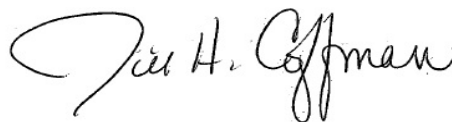
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Very truly yours,



JILL H. COFFMAN
Regional Director

cc: (b) (6), (b) (7)(C)
Workers United Canada Council SEIU
2800 Skymark Avenue #10A
Mississauga ON L4W 5A6

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 20**

LUSH COSMETICS, LLC

and

Case 20-CA-272392

**WORKERS UNITED
CANADA COUNCIL, SEIU**

COMPLAINT AND NOTICE OF HEARING

This Complaint and Notice of Hearing is based on a charge filed by Workers United Canada Council, SEIU (Charging Party) against Lush Fresh Handmade Cosmetics, herein referred to by its correct name Lush Cosmetics, LLC. (Respondent). It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Respondent has violated the Act as described below.

1. (a) The charge in this proceeding was filed by the Charging Party on February 8, 2021, and a copy was served on Respondent by U.S. mail on February 9, 2021.

(b) The first-amended charge in this proceeding was filed by the Charging Party on May 3, 2021, and a copy was served on Respondent by U.S. mail on May 4, 2021.

2. (a) At all material times, Respondent has been a limited liability company with places of business located throughout the State of California, including in San Francisco, and has been engaged in the retail sale of cosmetics.

(b) During the calendar year ending December 31, 2020, Respondent, in conducting its business operations described above in subparagraph 2(a), derived gross revenues in excess of \$500,000.

(c) During the calendar year ending December 31, 2020, Respondent, in conducting its business operations described above in subparagraph 2(a), purchased and received at its California facilities goods valued in excess of \$5,000 directly from points outside the State of California.

3. At all material times, Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

4. At all material times, the following individuals held the positions set forth opposite their respective names and have been supervisors of Respondent within the meaning of Section 2(11) of the Act and/or agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)

-

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

-

(b) (6), (b) (7)(C)

5. About January 6, 2021, Respondent, by letter signed by (b) (6), (b) (7)(C) and delivered to employees in San Francisco on January 13, 2021 by (b) (6), (b) (7)(C), threatened employees with unspecified reprisals by instructing that making “unsubstantiated allegations” about the company on Respondent’s intranet site, “The Hive,” would constitute misconduct.

6. About January 13, 2021, Respondent, by (b) (6), (b) (7)(C), at Respondent’s Powell Street store in San Francisco,

(a) Interrogated employees about their union activities by asking them how they knew about a union organizing drive by Respondent’s Canadian employees;

(b) Instructed employees to allow (b) (6), (b) (7)(C) to review their comments prior to posting the comments on Respondent’s intranet site, “The Hive.”

7. By the conduct described above in paragraphs 5 and 6, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act in violation of Section 8(a)(1) of the Act.

8. The unfair labor practices of Respondent described above affect commerce within the meaning of Section 2(6) and (7) of the Act.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Complaint. The answer must be **received by this office on or before May 25, 2021.** Respondent also must serve a copy of the answer on each of the other parties. The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within


three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission.

If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Complaint are true.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on August 17, 2021, at 9:00 a.m. at the Natalie P. Allen Memorial Courtroom, 901 Market Street, Fourth Floor, Suite 400, San Francisco, California, or at another location or in another manner as ordered by the administrative law judge, including via videoconference, and on consecutive days thereafter until concluded, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this Complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

DATED AT San Francisco, California, this 11th day of May 2021.

A handwritten signature in black ink, reading "Jill H. Coffman". The signature is fluid and cursive, with the first name "Jill" and last name "Coffman" clearly legible.

Jill Coffman, Regional Director
National Labor Relations Board
Region 20
901 Market Street, Suite 400
San Francisco, California 94103

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 20-CA-272392

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C)

Workers United Canada Council, SEIU
2800 Skymark Ave #10A
Mississauga, ON L4W 5A6

Robert H. Buikema , Esq.
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20855 Watertown Rd Ste 200
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(b) (6), (b) (7)(C)

Workers United Canada Council, SEIU
2800 Skymark Ave #10A
Mississauga, ON L4W 5A6

Mark Wolverton, CEO
Lush Cosmetics, LLC
8680 Cambie St
Vancouver, BC V6P 6M9

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not

submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.